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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/079,468	05/15/1998	AKIRA NISHIMURA	360842003400	8388

7590 02/13/2002

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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT PAPER NUMBER

1771

26

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/079,468	NISHIMURA ET AL.
	Examiner	Art Unit
	Christopher C. Pratt	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 December 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-40 is/are pending in the application.

4a) Of the above claim(s) 1-21 and 29-39 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 22-28 and 40 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks and declarations filed 12/17/01 have been entered and carefully considered. Applicant's amendment is not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Election/Restrictions

2. This application contains claims 1-21 and 29-39 are drawn to an invention nonelected without traverse in Paper No. 22. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 22-28 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kishi et al (5447785) in view of Homma et al (5100713).

Applicant has amended the independent claim to include the limitations of nonelected claim 36 specifying the amount of binder used. Kishi teaches a binding agent to be applied in amounts anticipating applicant's claimed range (col. 10, lines 34-35). In the alternative, if the percentages taught in Kishi do not inherently anticipate

applicant's claimed amount it would have been obvious to a person having ordinary skill in the art to utilize a binder in amounts within applicant's claimed range. The skilled artisan would have been motivated to vary the amount of binder by the desire to modify the weight and flexibility of the fabric.

Applicant argues that the phrase "bonding by lines" in Homma refers only to stitching, as opposed applying a resin binder in a line-like manner, as is instantly claimed. Applicant has submitted two declarations. One by a co-inventor of the Homma reference, which states that the inventors intended said phrase to refer to stitching. This declaration further states that the inventors of Homma did not contemplate applying a binder in a line-like manner. With respect to this point, the examiner notes that it is improper for one inventor to state what other inventors did or did not contemplate. Regardless it is the examiner's position that a person having ordinary skill in the art would have interpreted the phrase to mean applying a resin binder in a line-like manner. Col. 6, line 55 states that thermoplastic resins can be used as the binder. Furthermore, lines 65-66 states that the "woven fabric can **also** be integrated by stitching." This implies that the previous paragraph referred to resin binders while the following passage refers to stitching as an alternative embodiment. The examiner further notes that applicant's independent claim does not preclude the possibility that the binder comprises stitches.

Applicant's second declaration is executed by an assignee of the instant application and is intended to illustrate the interpretation of a person having ordinary skill in the art. Said assignee states that, as a person having ordinary skill in the art he

interprets the Homma passage to refer to stitching. While this may be the opinion of a single person having ordinary skill in the art, said assignee cannot speak for how other people having ordinary skill would interpret the passage. Also, the declaration fails to take into account the disclosure at col. 6, line 55 in combination with that at col. 6, lines 65-66. Lastly, it could be argued that assignee's opinion may be biased by his interest in the instant application.

Applicant argues that Kishi and Homma do not contemplate the "source" of the problem that applicant's binder solves, i.e. to maintain yarn flatness. However, Kishi specifically states that a sizing agent is applied to flatten the yarns and reduce twist (col. 10, lines 11-15).

With respect to claim 40, Kishi teaches a single woven fabric (abstract).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1771

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt
February 10, 2002



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700